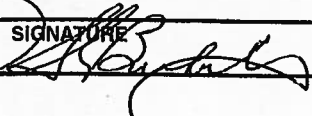
	<b>U.S. ENVIRONMENTAL PROTECTION AGENCY</b>  <b>Grant Agreement</b>		GRANT NUMBER (FAIN): 00T81113		DATE OF AWARD 06/28/2012		
			MODIFICATION NUMBER: 0				
			PROGRAM CODE: BG		TYPE OF ACTION New		MAILING DATE 07/05/2012
			PAYMENT METHOD: Advance		ACH# 90103		
RECIPIENT TYPE: Indian Tribe			Send Payment Request to: Las Vegas Finance Center, Fax (702) 798-2423				
RECIPIENT:  Washoe Tribe of Nevada & California 919 Highway 395 South Gardnerville, NV 89410 EIN: 88-0120754			PAYEE:  Washoe Tribe of NV & CA 919 Highway 395 South Gardnerville, NV 89410				
PROJECT MANAGER  Marie Barry 919 Highway 395 South Gardnerville, NV 89410 E-Mail: malre.barry@washoetribe.us Phone: 775-265-8682		EPA PROJECT OFFICER  Stephanie Wilson 75 Hawthorne Street, WTR-10 San Francisco, CA 94105 E-Mail: Wilson.Stephannie@epa.gov Phone: 775-885-6190		EPA GRANT SPECIALIST  GwenL Brown Grants Management Office, MTS-7 E-Mail: Brown.GwenL@epa.gov Phone: 415-972-3661			
<b>PROJECT TITLE AND DESCRIPTION</b> Performance Partnership Grant  These funds support further development and administration of the Washoe Tribe of Nevada and California's Water Pollution Control, Nonpoint Source and Wetlands Programs. Major activities include: water quality monitoring and analysis; development of water quality standards; reduction of nonpoint pollution through implementation of Wellhead Protection best management practices (BMPs) and Green Infrastructure BMPs; participation and coordination in intertribal and interagency water quality coordination activities; development of a Tribal Wetland Program Plan; environmental program evaluation and general administration of the programs.  This assistance agreement provides full federal funding in the amount of \$242,500. Preaward costs have been approved back to July 1, 2012.							
BUDGET PERIOD 07/01/2012 - 06/30/2014		PROJECT PERIOD 07/01/2012 - 06/30/2014		TOTAL BUDGET PERIOD COST \$255,263.00	TOTAL PROJECT PERIOD COST \$255,263.00		
<b>NOTICE OF AWARD</b>  Based on your application dated 03/28/2012, including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA), hereby awards \$242,500. EPA agrees to cost-share 95.00% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$242,500. Such award may be terminated by EPA without further cause if the recipient fails to provide timely affirmation of the award by signing under the Affirmation of Award section and returning all pages of this agreement to the Grants Management Office listed below within 21 days after receipt, or any extension of time, as may be granted by EPA. This agreement is subject to applicable EPA statutory provisions. The applicable regulatory provisions are 40 CFR Chapter 1, Subchapter B, and all terms and conditions of this agreement and any attachments.							
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)			AWARD APPROVAL OFFICE				
ORGANIZATION / ADDRESS  U.S. EPA, Region 9 Grants Management Office, MTS-7 75 Hawthorne Street San Francisco, CA 94105			ORGANIZATION / ADDRESS  U.S. EPA, Region 9 Water Division, WTR-1 75 Hawthorne Street San Francisco, CA 94105				
<b>THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY</b>							
Digital signature applied by EPA Award Official for Denise Zvanovec - Grants Management Officer Susan Chlu - Award Official delegate					DATE 06/28/2012		
<b>AFFIRMATION OF AWARD</b>							
<b>BY AND ON BEHALF OF THE DESIGNATED RECIPIENT ORGANIZATION</b>							
SIGNATURE 		TYPED NAME AND TITLE Wanda Batchelor, Chairwoman			DATE 7/11/12		

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## EPA Funding Information

BG - 00T81113 - 0 Page 2

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$	\$ 242,500	\$ 242,500
EPA In-Kind Amount	\$	\$	\$ 0
Unexpended Prior Year Balance	\$	\$	\$ 0
Other Federal Funds	\$	\$	\$ 0
Recipient Contribution	\$	\$ 12,763	\$ 12,763
State Contribution	\$	\$	\$ 0
Local Contribution	\$	\$	\$ 0
Other Contribution	\$	\$	\$ 0
Allowable Project Cost	\$ 0	\$ 255,263	\$ 255,263

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.605 - Performance Partnership Grants	Appropriations Act of 1996 (PL 104-134)	40 CFR PTS 31 & 35 SUBPT B

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
-	1209W0E032	12	E1	09LA0D5	202B01	4108	-	-	30,000
-	1209W0E032	12	E1	09LA0D5	202B06	4108	-	-	165,000
-	1209W0E059	12	E1	09LA0D5	202B07	4108	-	-	47,500
									242,500

## Budget Summary Page

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$132,002
2. Fringe Benefits	\$61,583
3. Travel	\$9,001
4. Equipment	\$0
5. Supplies	\$5,378
6. Contractual	\$19,337
7. Construction	\$0
8. Other	\$15,400
9. Total Direct Charges	\$242,701
10. Indirect Costs: % Base	\$12,562
11. Total (Share: Recipient 5.00 % Federal 95.00 %.)	\$255,263
12. Total Approved Assistance Amount	\$242,500
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$242,500
15. Total EPA Amount Awarded To Date	\$242,500

## Detailed Table B Budget Page: 1

Table B - Program Element Classification (Non-construction)	Total Approved Allowable Budget Period Cost
1.	\$
2.	\$
3.	\$
4.	\$
5.	\$
6.	\$
7.	\$
8.	\$
9.	\$
10.	\$
11. Total (Share: Recip % Fed %)	\$
12. Total Approved Assistance Amount	\$

## Detailed Table B Budget Page: 1

Table B - Program Element Classification (Non-construction)	Total Approved Allowable Budget Period Cost
1. FY-13 Cumulative Budget:	\$
2. CWA 106: Fed: \$165,000; 5% match \$8,684 Wetlands: Fed: \$47,500; 5% match \$2,500 NPS 319: Fed: \$30,000; 5% match \$1,579	\$
3. Total Fed: \$242,500 Minimum match required: \$12,763 Total Project Cost: \$255,263	\$
4.	\$
5. This action includes:	\$
6. CWA 106: Fed: \$165,000; 5% match \$8,684 Wetlands: Fed: \$47,500; 5% match \$2,500 NPS 319: Fed: \$30,000; 5% match \$1,579 Total Fed: \$242,500; Total Match: \$12,763	\$
7.	\$
8.	\$

9.		\$
10.		\$
11. Total (Share: Recip % Fed %)		\$
12. Total Approved Assistance Amount		\$

## **Administrative Conditions**

### **1. Federal Financial Report (SF 425)**

The final Federal Financial Report (FFR) covering the entire project period shall be submitted within 90 days after the end of the project period according to 40 CFR Part 31.23(b) and 31.41(b). The LVFC will make adjustments, as necessary, to obligated funds after reviewing and accepting a final Federal Financial Report. Recipients will be notified and instructed by EPA if they must complete any additional forms for the closeout of the assistance agreement.

For awards with cumulative project and budget periods greater than 12 months, an interim FFR covering the period from "project/budget period start date" to **June 30** of each calendar year shall be submitted to the U.S. EPA Las Vegas Finance Center, 4220 South Maryland Parkway, Bldg. C, Room 503, Las Vegas, NV 89193-8515, no later than **September 30** of the same calendar year.

### **2. Single Audit Act**

In accordance with OMB Circular A-133, which implements the Single Audit Act, the recipient hereby agrees to obtain a single audit from an independent auditor, if it expends \$500,000 or more in total Federal funds in any fiscal year. Within nine months after the end of a recipient's fiscal year or 30 days after receiving the report from the auditor, the recipient shall submit the SF-SAC and a Single Audit Report Package. The recipient **MUST** submit the SF-SAC and a Single Audit Report Package using the Federal Audit Clearinghouse's Internet Data Entry System. For complete information on how to accomplish the single audit submissions, you will need to visit the Federal Audit Clearinghouse Web site: <http://harvester.census.gov/fac/>.

### **3. Central Contractor Registration and Universal Identifier Requirements**

A. Requirement for Central Contractor Registration (CCR). Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

B. Requirement for Data Universal Numbering System (DUNS) numbers. If you are authorized to make subawards under this award, you:

1. Must notify potential subrecipients that no entity (see definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its DUNS number to you.
2. May not make a subaward to an entity unless the entity has provided its DUNS number to you.

C. Definitions. For purposes of this award term:

1. Central Contractor Registration (CCR) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the CCR Internet site (currently at <http://www.ccr.gov>).

2. Data Universal Numbering System (DUNS) number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).

3. Entity, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:

- a. A Governmental organization, which is a State, local government, or Indian tribe;
- b. A foreign public entity;
- c. A domestic or foreign nonprofit organization;
- d. A domestic or foreign for-profit organization; and
- e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

4. Subaward:

- a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
- b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. --.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
- c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.

5. Subrecipient means an entity that:

- a. Receives a subaward from you under this award; and
- b. Is accountable to you for the use of the Federal funds provided by the subaward.

#### 4. **Reporting Subawards and Executive Compensation**

a. Reporting of first-tier subawards.

1. Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e of this award term).

2. Where and when to report.

- i. You must report each obligating action described in paragraph a.1. of this award term to [www.fsrc.gov](http://www.fsrc.gov).
- ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

3. What to report. You must report the information about each obligating action that the submission instructions posted at [www.fsrc.gov](http://www.fsrc.gov) specify.

b. Reporting Total Compensation of Recipient Executives.

1. Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if –

- i. **The total Federal funding authorized to date under this award is \$25,000 or more;**
- ii. In the preceding fiscal year, you received—
  - (A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
  - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
- iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at

<http://www.sec.gov/answers/execomp.htm>.)

2. **Where and when to report.** You must report executive total compensation described in paragraph b.1. of this award term:
  - i. As part of your registration profile at [www.ccr.gov](http://www.ccr.gov).
  - ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. **Reporting of Total Compensation of Subrecipient Executives.**

1. **Applicability and what to report.** Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if –

i. in the subrecipient's preceding fiscal year, the subrecipient received—

(A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at

<http://www.sec.gov/answers/execomp.htm>.)

2. **Where and when to report.** You must report subrecipient executive total compensation described in paragraph c.1. of this award term:

i. To the recipient.

ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. **Exemptions.** If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

i. subawards, and

ii. the total compensation of the five most highly compensated executives of any subrecipient.

e. **Definitions.** For purposes of this award term:

1. **Entity** means all of the following, as defined in 2 CFR part 25:

i. A Governmental organization, which is a State, local government, or Indian tribe;

ii. A foreign public entity;

iii. A domestic or foreign nonprofit organization;

iv. A domestic or foreign for-profit organization;

v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

2. **Executive** means officers, managing partners, or any other employees in management positions.

3. **Subaward:**

i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.

ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. —.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").

- iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.
- 4. Subrecipient means an entity that:
  - i. Receives a subaward from you (the recipient) under this award; and
  - ii. Is accountable to you for the use of the Federal funds provided by the subaward.
- 5. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
  - i. Salary and bonus.
  - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
  - iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
  - iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
  - v. Above-market earnings on deferred compensation which is not tax-qualified.
  - vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

## 5. Trafficking in Persons

- a. *Provisions applicable to a recipient that is a private entity*
  - 1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—
    - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
    - ii. Procure a commercial sex act during the period of time that the award is in effect; or
    - iii. Use forced labor in the performance of the award or subawards under the award.
  - 2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —
    - i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
    - ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—
      - A. Associated with performance under this award; or
      - B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our Agency at 2 CFR 1532.
- b. *Provision applicable to a recipient other than a private entity*. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—
  - 1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
  - 2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—
    - i. Associated with performance under this award; or
    - ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR 1532
- c. *Provisions applicable to any recipient*.
  - 1. You must inform us immediately of any information you receive from any source alleging a



violation of a prohibition in paragraph a.1 of this award term.

2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:

- i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
- ii. Is in addition to all other remedies for noncompliance that are available to us under this award.

3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

d. **Definitions** . For purposes of this award term:

1. "Employee" means either:

- i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
- ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

2. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

3. "Private entity":

i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.

ii. Includes:

- A. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
- B. A for-profit organization.

4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

## **6. Recycled Paper**

In accordance with Executive Order 13423 (Strengthening Federal Environmental, Energy and Transportation Management dated January 24, 2007), EPA Order 1000.25 and 40 CFR Part 30.16 (as applicable), the recipient shall use recycled paper and double sided printing for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration. The recipient shall give preference in its procurement programs funded with Federal funds to the purchase of recycled products pursuant to EPA's guidelines, as applicable.

Any State agency or agency of a political subdivision of a State shall also comply with the requirements set forth in the Resource Conservation and Recovery Act (RCRA), Section 6002 (42 U.S.C. 6962), which requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA under 40 CFR Part 247. Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more.

## **7. Hotel and Motel Fire Safety**

The recipient agrees to ensure that all conference, meeting, convention, or training funded in whole or in part with Federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel/> to see if a property is in compliance (FEMA ID is currently not required), or to find other information about the Act. (Refer to 40 CFR Part 30.18 and 15 U.S.C. 2225a, as

applicable.)

## **8. Drug-Free Workplace**

The recipient organization of this EPA assistance agreement must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title 2 CFR Part 1536 Subpart B. Additionally, in accordance with these regulations, the recipient organization must identify all known workplaces under its federal awards, and keep this information on file during the performance of the award. Those recipients who are individuals must comply with the drug-free provisions set forth in Title 2 CFR Part 1536 Subpart C.

The consequences for violating this condition are detailed under Title 2 CFR Part 1536 Subpart E. Recipients can access the Code of Federal Regulations (CFR) Title 2 Part 1536 at <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=701081165f70316effa8ebf67df73de0&rgn=div5&view=text&node=2:1.2.11.11.2&idno=2>.

## **9. Debarment, Suspension and Other Responsibility Matters**

The recipient shall fully comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons)." The recipient is responsible for ensuring that any lower tier covered transaction as described in Subpart B of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. The recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. The recipient acknowledges that failing to disclose the information as required at 2 CFR 180.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies, including suspension and debarment.

Recipient may access the Excluded Parties List System at [www.epls.gov](http://www.epls.gov). This term and condition supersedes EPA Form 5700-49, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters."

## **10. Reimbursement Limitation**

EPA's financial obligations to the recipient are limited by the amount of federal funding awarded to date as shown on line 15 in its EPA approved budget. If the recipient incurs costs in anticipation of receiving additional funds from EPA, it does so at its own risk.

## **11. Management Fees**

Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs which are not allowable under this assistance agreement. Management fees or similar charges may not be used to improve or expand the project funded under this agreement, except to the extent authorized as a direct cost of carrying out the scope of work.

## **12. Lobbying and Litigation Prohibition**

The recipient shall ensure that no grant funds awarded under this assistance agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The recipient shall abide by 2 CFR 225 (OMB Circular A-87), which prohibits the use of federal grant funds for litigation against the United States or for lobbying or other political activities.

## **13. Utilization of Disadvantaged Business Enterprises**

The recipient agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises in procurement under assistance agreements as set forth in 40 CFR Part 33. The EPA DBE rule can be accessed at <http://www.epa.gov/osbp>. In addition, the recipient agrees to make good faith efforts whenever procuring construction, equipment, services and supplies under an EPA assistance agreement, and to ensure that sub-recipients, loan recipients, and prime contractors also comply with 40 CFR Section 33.301. Records documenting compliance with the six good faith efforts shall be retained.

Pursuant to 40 CFR, Section 33.412, Tribal and Insular Area recipients are not required to negotiate fair share goals with EPA until May 27, 2011. Thereafter, Tribal and Insular Area recipients are required to adhere to the full requirements of 40 CFR, Part 33, Subpart D, as applicable.

A recipient of a Continuing Environmental Program Grant or other annual grant agrees to create and maintain a bidders list. A recipient of an EPA financial assistance agreement to capitalize a revolving loan fund also agrees to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Refer to 40 CFR Section 33.501 (b) and (c) for specific requirements and exemptions.

#### **14. MBE/WBE Utilization Report**

The recipient agrees to complete and submit to the Grants Management Office, MTS-7, a MBE/WBE Utilization Report (EPA Form 5700-52A), within 30 days after the end of the Federal fiscal year, i.e., by October 30 of each calendar year. Negative reports are required. Only procurements with certified MBE/WBEs are counted towards a recipient's MBE/WBE accomplishments. A final MBE/WBE report must be submitted within 90 days after the end of the project period. Your grant cannot be officially closed without all MBE/WBE reports. EPA Form 5700-52A may be obtained from the EPA Office of Small Business Program's Home Page on the internet at [www.epa.gov/osbp](http://www.epa.gov/osbp).

#### **15. Indirect Costs**

The cost principles of 2 CFR Part 225 (OMB Circular A-87), "Cost Principles for State, Local, and Indian Tribal Governments," applies to this agreement.

If the recipient does not have a previously established indirect cost rate, the recipient must submit their indirect cost rate proposals to:

National Business Center  
Indirect Cost Services  
U.S. Department of the Interior  
2180 Harvard Street, Suite 430  
Sacramento, CA 95815-3317

For proposal preparation, the recipient may use the Native American Government checklists located at: <http://www.aqd.nbc.gov/services/ICS.aspx>

Recipients are entitled to reimbursement of indirect costs, subject to any statutory or regulatory administrative cost limitations, if they have a current rate agreement or have submitted an indirect cost rate proposal to their cognizant federal agency for review and approval. Recipients are responsible for maintaining an approved indirect cost rate throughout the life of the award. Recipients may draw down grant funds once a rate has been approved, but only for indirect costs incurred during the period specified in the rate agreement. Recipients are not entitled to indirect costs for any period in which the rate has expired.

Recipients with differences between provisional and final rates are not entitled to more than the award amount. Recipients may request EPA approval to rebudget funds from direct cost categories to the indirect cost category (to grants which have not expired or been closed out) to cover increased indirect

costs.

Pursuant to 40 CFR 31.26, a recipient agrees to comply with the audit requirements prescribed in the Single Audit Act Amendments, and revised OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," including Subpart C Section 305(b) which addresses the restriction on auditors preparing indirect cost proposals.

## **16. Payment to Consultants**

Per 40 CFR Part 31.36(j), EPA's participation in the salary rate (excluding overhead and travel) paid to individual consultants retained by recipients or by a recipient's contractors or subcontractors shall be limited to the maximum daily rate for a Level IV of the Executive Schedule, to be adjusted annually. The Federal Executive Schedule (i.e., Salary Table) is located at: <http://www.opm.gov/oca/>. This limit applies to consultation services of designated individuals with specialized skills and if the terms of the contract provide the recipient with responsibility for the selection, direction, and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation. This rate does not include overhead or travel costs and the recipient may pay these in accordance with its normal travel practices.

Subagreements with firms or individuals for services which are awarded using the procurement requirements in 40 CFR Part 31, are not affected by this limitation unless the terms of the contract provide the recipient with responsibility for the selection, direction, and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation. See 40 CFR Part 31.36(j)(2).

## **17. Procurement**

The recipient will ensure all procurement transactions will be conducted in a manner providing full and open competition consistent with EPA regulations under 40 CFR Part 30.43, 31.36 or 35.6555, as applicable. In accordance with 40 CFR Part 30.45, 31.36(f) or 35.6585, as applicable, the grantee and subgrantee(s) must perform a cost or price analysis in connection with every procurement action, including contract modifications.

## **18. Subawards**

### **a. The recipient agrees to:**

- (1) Establish all subaward agreements in writing;
- (2) Maintain primary responsibility for ensuring successful completion of the EPA-approved project (this responsibility cannot be delegated or transferred to a subrecipient);
- (3) Ensure that any subawards comply with the standards in Section 210(a)-(d) of OMB Circular A-133 and are not used to acquire commercial goods or services for the recipient;
- (4) Ensure that any subawards are awarded to eligible subrecipients and that proposed subaward costs are necessary, reasonable, and allocable;
- (5) Ensure that any subawards to 501(c)(4) organizations do not involve lobbying activities;
- (6) Monitor the performance of their recipients and ensure that they comply with all applicable regulations, statutes, and terms and conditions which flow down in the subaward;
- (7) Obtain EPA's consent before making a subaward to a foreign or international organization, or a subaward to be performed in a foreign country; and
- (8) Obtain approval from EPA for any new subaward work that is not outlined in the approved work plan in accordance with 40 CFR Parts 30.25 and 31.30, as applicable.

b. Any questions about subrecipient eligibility or other issues pertaining to subawards should be addressed to the recipient's EPA Project Officer. Additional information regarding subawards may be found at <http://www.epa.gov/ogd/guide/subaward-policy-part-2.pdf>. Guidance for distinguishing between vendor and subrecipient relationships and ensuring compliance with Section 210(a)-(d) of OMB Circular A-133 can be found at <http://www.epa.gov/ogd/guide/subawards-appendix-b.pdf> and

[http://www.whitehouse.gov/omb/financial\\_fin\\_single\\_audit](http://www.whitehouse.gov/omb/financial_fin_single_audit)

c. The recipient is responsible for selecting its subrecipients and, if applicable, for conducting subaward competitions.

### **Programmatic Conditions**

P1. EPA may terminate the assistance agreement for failure of the recipient to make sufficient progress so as to reasonably ensure completion of the project within the project period, including any extensions. EPA will measure sufficient progress by examining the performance required under the workplan in conjunction with the milestone schedule, the time remaining for performance within the project period, and/or the availability of funds necessary to complete the project.

P2. Modifications to the approved workplan, including additions, deletions, or changes in the schedule, shall be submitted in a timely manner to the EPA Project Officer for approval.

P3. The grantee shall prepare and submit quarterly progress reports to self evaluate and to joint evaluate annual performance under the grant including: status of each workplan goal, task, deliverable; status of expenditures for the reporting period; summary of accomplishments including the reporting of environmental results and discussion of problems impacting or expected to impact performance; and tasks not on schedule and proposed dates of completion. Each report is due on the 30th day after the end of the quarter, i.e., January 30, April 30, July 30, October 30. The recipient shall submit a final report within 90 days of the end of the project period.

P4. This grant includes the performance of environmental measurements. A QA Plan was approved by EPA and the Washoe Tribe of Nevada and California on November 13, 2000; however, the QA Plan has exceeded its 5 year life and needs to be revised. A new QA Plan must be prepared or the existing QA Plan must be amended or modified to reflect any changes or updates to the recipient's monitoring program. EPA provided comments on a revised QA Plan on March 23, 2009. During the current grant cycle, the tribe should address EPA's comments and resubmit its plan for approval. Measurement activities may continue under the currently approved plan until the new plan is approved. Contact the QA Office at 415-972-3411.

P5. This grant work program is subject to the statutory "satisfactory progress" provision prescribed in Section 319(h)(8) and the EPA policy on Performance Based Assistance (May 31, 1985).

P6. Any management practices implemented for the project must be properly operated and maintained for the intended purposes during its life span. Operation includes the administration, management and performance of non-maintenance actions needed to keep the completed practice safe and functioning as intended. Maintenance includes work to prevent deterioration of the practice, repairing damage, or replacement of the practice to its original condition if one or more components fail. Management practices and projects that are damaged or destroyed due to a natural disaster (e.g., earthquakes, storm events, floods, etc) or events beyond the control of the grantee are exempt from this condition.

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